

CLAIMS

Convention signed at Washington April 11, 1839

Ratified by Mexico January 11, 1840

Senate advice and consent to ratification March 17, 1840

Ratified by the President of the United States April 6, 1840

Ratifications exchanged at Washington April 7, 1840

Entered into force April 7, 1840

Proclaimed by the President of the United States April 8, 1840

Supplemented by convention of January 30, 1843¹

Terminated by treaty of February 2, 1848²

8 Stat. 526; Treaty Series 205³

Whereas a convention for the adjustment of claims of citizens of the United States upon the Government of the Mexican Republic was concluded and signed at Washington on the 10th day of September, 1838,⁴ which convention was not ratified on the part of the Mexican Government, on the alleged ground that the consent of His Majesty the King of Prussia to provide an arbitrator to act in the case provided by said convention could not be obtained;

And whereas the parties to said convention are still, and equally, desirous of terminating the discussions which have taken place between them in respect to said claims, arising from injuries to the persons and property of citizens of the United States by Mexican authorities, in a manner equally advantageous to the citizens of the United States, by whom said injuries have been sustained, and more convenient to Mexico than that provided by said convention:

The President of the United States has named for this purpose, and furnished with full powers, John Forsyth, Secretary of State of the said United States; and the President of the Mexican Republic has named His Excellency Señor Don Francisco Pizarro Martinez, accredited as Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic to the United States, and has furnished him with full powers for the same purpose;

¹ TS 206, *post*, p. 788.

² TS 207, *post*, p. 791. The 1848 treaty provides in art. XIII for payment of the awards rendered under the treaties of 1839 and 1843.

³ For a detailed study of this convention, see 4 Miller 189.

⁴ Unperfected; for text, see 4 Miller 200.

And the said Plenipotentiaries have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that all claims of citizens of the United States upon the Mexican Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State or to the diplomatic agent of the United States at Mexico until the signature of this convention, shall be referred to four commissioners, who shall form a board, and be appointed in the following manner, namely: two commissioners shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and two commissioners by the President of the Mexican Republic. The said commissioners, so appointed, shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them on the part of the United States and the Mexican Republic respectively.

ARTICLE II

The said board shall have two secretaries, versed in the English and Spanish languages; one to be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and the other by the President of the Mexican Republic. And the said Secretaries shall be sworn faithfully to discharge their duty in that capacity.

ARTICLE III

The said board shall meet in the city of Washington within three months after the exchange of the ratifications of this convention, and within eighteen months from the time of its meeting shall terminate its duties. The Secretary of State of the United States shall, immediately after the exchange of the ratifications of this convention, give notice of the time of the meeting of the said board, to be published in two newspapers in Washington, and in such other papers as he may think proper.

ARTICLE IV

All documents which now are in, or hereafter, during the continuance of the commission constituted by this convention, may come into the possession of the Department of State of the United States, in relation to the aforesaid claims, shall be delivered to the board. The Mexican Government shall furnish all such documents and explanations as may be in their possession, for the adjustment of the said claims according to the principles of justice, the law of nations, and the stipulations of the treaty of amity and commerce between the United States and Mexico of the 5th of April, 1831; ⁵ the said documents to be specified when demanded at the instance of the said commissioners.

⁵ TS 203, *ante*, p. 764.

ARTICLE V

The said commissioners shall, by a report under their hands and seals, decide upon the justice of the said claims and the amount of compensation, if any, due from the Mexican Government in each case.

ARTICLE VI

It is agreed that if it should not be convenient for the Mexican Government to pay at once the amount so found due, it shall be at liberty, immediately after the decisions in the several cases shall have taken place, to issue Treasury notes, receivable at the maritime custom-houses of the Republic in payment of any duties which may be due or imposed at said custom-houses upon goods entered for importation or exportation; said Treasury notes to bear interest at the rate of eight per centum per annum from the date of the award on the claim in payment of which said Treasury notes shall have been issued until that of their receipt at the Mexican custom-houses. But as the presentation and receipt of said Treasury notes at said custom-houses in large amounts might be inconvenient to the Mexican Government, it is further agreed that, in such case, the obligation of said Government to receive them in payment of duties, as above stated, may be limited to one-half the amount of said duties.

ARTICLE VII

It is further agreed that in the event of the commissioners differing in relation to the aforesaid claims, they shall, jointly or severally, draw up a report, stating, in detail, the points on which they differ, and the grounds upon which their respective opinions have been formed. And it is agreed that the said report or reports, with authenticated copies of all documents upon which they may be founded, shall be referred to the decision of His Majesty the King of Prussia. But as the documents relating to the aforesaid claims are so voluminous that it cannot be expected His Prussian Majesty would be willing or able personally to investigate them, it is agreed that he shall appoint a person to act as an arbiter in his behalf; that the person so appointed shall proceed to Washington; that his travelling expenses to that city and from thence on his return to his place of residence in Prussia, shall be defrayed, one-half by the United States and one-half by the Mexican Republic; and that he shall receive as a compensation for his services a sum equal to one-half the compensation that may be allowed by the United States to one of the commissioners to be appointed by them, added to one-half the compensation that may be allowed by the Mexican Government to one of the commissioners to be appointed by it. And the compensation of such arbiter shall be paid, one-half by the United States and one-half by the Mexican Government.

ARTICLE VIII

Immediately after the signature of this convention, the Plenipotentiaries of the contracting parties (both being thereunto competently authorized) shall, by a joint note, addressed to the Minister for Foreign Affairs of His Majesty the King of Prussia, to be delivered by the Minister of the United States at Berlin, invite the said monarch to appoint an umpire to act in his behalf in the manner above mentioned, in case this convention shall be ratified respectively by the Governments of the United States and Mexico.

ARTICLE IX

It is agreed that, in the event of His Prussian Majesty's declining to appoint an umpire to act in his behalf, as aforesaid, the contracting parties, on being informed thereof, shall, without delay, invite Her Britannic Majesty, and in case of her declining, His Majesty the King of the Netherlands, to appoint an umpire to act in their behalf, respectively, as above provided.

ARTICLE X

And the contracting parties further engage to consider the decision of such umpire to be final and conclusive on all the matters so referred.

ARTICLE XI

For any sums of money which the umpire shall find due to citizens of the United States by the Mexican Government, Treasury notes shall be issued in the manner aforementioned.

ARTICLE XII

And the United States agree forever to exonerate the Mexican Government from any further accountability for claims which shall either be rejected by the board or the arbiter aforesaid, or which, being allowed by either, shall be provided for by the said Government in the manner before mentioned.

ARTICLE XIII

And it is agreed that each Government shall provide compensation for the commissioners and secretary to be appointed by it; and that the contingent expenses of the board shall be defrayed, one moiety by the United States and one moiety by the Mexican Republic.

ARTICLE XIV

This convention shall be ratified, and the ratifications shall be exchanged at Washington within twelve months from the signature hereof, or sooner if possible.

In faith whereof we, the Plenipotentiaries of the United States of America and of the Mexican Republic, have signed and sealed these presents.

Done in the city of Washington on the eleventh day of April, in the year of our Lord one thousand eight hundred and thirty-nine, in the sixty-third year of the Independence of the United States of America, and the nineteenth of that of the Mexican Republic.

JOHN FORSYTH [SEAL]

FRAN. PIZARRO MARTINEZ [SEAL]